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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,157	09/11/2003	Mitchell S. Owens	8022-A-1	6781
7590	12/14/2005			
Jordan M. Meschkow Meschkow & Gresham, PLC Suite 409 5727 North 7th Street Phoenix, AZ 85014			EXAMINER SCHNEIDER, CRAIG M	
			ART UNIT	PAPER NUMBER
			3753	
DATE MAILED: 12/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/661,157		OWENS ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Craig M. Schneider		3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/11/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

**DETAILED ACTION**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A – Figures 1, 3, 5-7, and 10

Species B – Figure 9

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1, 15 and 20 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

Art Unit: 3753

case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Jordan Meschkow on 11/30/05 a provisional election was made without traverse to prosecute the invention of Species A, claims 1-2 and 4-20. Affirmation of this election must be made by applicant in replying to this Office action. Claim 3 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***IDS***

In the IDS, Guardshack Product Line Brochure is disclosed. I called BPD I to verify when the brochure was published. This brochure in question was published in 2000 and would be further backed up by the nomenclature on the bottom right of the last page of "GS.1.2000b". I then added the date onto the IDS to make the record official in regards to the date of the year 2000.

### ***Specification***

The disclosure is objected to because of the following informalities:

On page 5, paragraph 26, line 3 "7-7" should be --5-5--.

On page 7, paragraph 36, line 3 "be" should be --the--.

On page 10, paragraph 52, line 2 "hereinbefore" should be --herein before--.

On page 11, paragraph 56, line 5 the second "66" should be --62--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

Art Unit: 3753

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-2, 6, 8-9, 11, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guardshack Product Line Brochure, Backflow Prevention Device InnClosures herein after referred to as Guardshack in view of Griffin et al. (6,532,985) and in further view of Griffin et al. (6,021,804).

Guardshack discloses a security enclosure for a control apparatus, the enclosure comprising a cage configured to connect to a base and encompass the apparatus as seen in the brochure. Guardshack does not disclose a mounting strap configured to extend inside the cage substantially perpendicular to the base when the cage is connected to the base and a lock device configured to secure the cage to the mounting strap when the cage is connected to the base. Griffin et al. (6,532,985) disclose a mounting strap (25) substantially perpendicular to the base (19) when the cage (1) is connected to the base and a lock device (24) configured to secure the cage to the mounting strap when the cage is connected to the base (col. 9, lines 29-67 onto col. 10, lines 1-9). Griffin et al. further disclose that the enclosure includes a lock plate (1) in which a cage lock hole (2) is incorporated (col. 4, lines 61-64). Griffin et al. (6,021,804) disclose that the mounting hole (72) is inside the cage (col. 5, lines 63-67 onto col. 6, lines 1-10).

Art Unit: 3753

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the mounting strap configuration as taught by Griffin et al. (6,532,985) patent and that the mounting would be inside the cage as taught by Griffin et al. (6,021,804) and the lock plate of Griffin et al. (6,532,985) onto Guardshack, in order to provide a solid one piece cage for ease of installation.

Regarding claim 2, Guardshack-Griffin et al.-Griffin et al. further disclose that the enclosure additionally comprises a second mounting strap configured to extend inside the cage substantially perpendicular to the base when the cage is connected to the base and the lock device is configured to secure the cage to the first and second mounting straps when the cage is connected to the base as can be seen in Figures 16-18 of Griffen et al. (6,532,985).

Regarding claim 6, Guardshack-Griffin et al.-Griffin et al. disclose that the cage has a cage lock hole (2 of Griffin et al. (6,532,985)), the mounting strap has a strap lock hole (26 of Griffin et al. (6,532,985)), and the lock device is configured to reside within the cage and strap lock holes when the cage is connected to the base (col. 9, lines 38-45). Griffin et al. (6,532,985) further disclose that the cage lock hole is through a panel of rigid insulation covered by sheet metal (col. 4, lines 61-64).

Regarding claim 8, Guardshack-Griffin et al.-Griffin et al. disclose that the cage comprises a frame, a first end panel, a second end panel, and a perforated body panel as seen in the Guardshack brochure.

Regarding claim 9, Guardshack-Griffin et al.-Griffin et al. disclose that the frame comprises a first "U" member having a first upright portion and a second upright portion,

Art Unit: 3753

a second "U" member having a third upright portion and a fourth upright portion, a first angle member coupled between said first and second upright portions, a second angle member coupled between said second and third upright portions, a third angle member coupled between said third and fourth upright portions, and a fourth angle member coupled between said fourth and first upright portions as seen in the Guardshack brochure.

Regarding claim 14, Guardshack further discloses a shroud configured to enshroud the fixed and moveable lock tabs when the cage is connected to the base as seen in the brochure and mentioned on page 2 under "Lock Shield Brackets".

Claim 4 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guardshack-Griffin et al.-Griffin et al. as applied to claim 1 and 15 above, and further in view of Vidal et al. (US 2002/0031406 A1).

Guardshack-Griffin et al.-Griffin et al. disclose all the features of the claimed invention except that the mounting strap is a first mounting strap partially embedded within said base and that the enclosure additionally comprises a second mounting strap partially embedded within the base and configured to extend inside the cage substantially perpendicular to the base when the cage is connected to the base, and a mounting shank embedded with the base and extending between the first and second mounting straps. Vidal et al. discloses that the securing device has a first exposed anchor support that is partially embedded within the base (section between 6' and 6) and that the device additionally comprises a second exposed anchor support that is partially embedded within the base (section between 6 and 6'') and a mounting shank



Art Unit: 3753

(6) embedded with the base and extending between the first and second anchor supports as seen in Figure 8.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the method of partially burying the mounting straps and the shank of Guardshack-Griffin et al.-Griffin et al. as taught by the securing device of Vidal et al., in order to add more strength to the lock down device.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guardshack-Griffin et al.-Griffin et al. as applied to claim 1 above, and further in view of Sieben (1,690,461).

Guardshack-Griffin et al.-Griffin et al. disclose all the features of the claimed invention except that the cage has a strap engagement slot and that the mounting strap extends substantially vertically inside the cage through the strap engagement slot when the cage is connected to the base. Sieben discloses a strap engagement slot (10) and that the mounting strap (11) extends substantially vertically inside the strap engagement slot when the cage is connected to the base as seen in Figure 2 of Sieben (3 and 4) (page 2, lines 39-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the strap and slot teaching of Sieben onto Guardshack-Griffin et al.-Griffin et al., in order to create a stronger cage and lock connection.



Art Unit: 3753

Claim 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guardshack-Griffin et al.-Griffin et al. as applied to claim 6 and 16 above, and further in view of Carr (4,026,596).

Guardshack-Griffin et al.-Griffin et al. disclose all the features of the claimed invention except that the cage comprises a fixed lock tab having a tab hole. Carr discloses that the cage comprises a fixed lock tab having a tab hole (40)(col. 3, lines 61-64).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the lock tab of Carr onto the cage of Guardshack-Griffin et al.-Griffin et al., in order to make the lock device more secure to the cage.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guardshack-Griffin et al.-Griffin et al. as applied to claim 8 above, and further in view of Davenport (4,890,638).

Guardshack-Griffin et al.-Griffin et al. disclose all the features of the claimed invention except that the frame comprises a brace coupled between the first and second "U" members. Davenport discloses the use of a brace (83) on a wall (40) of an enclosure (col. 5, lines 3-5).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the brace teaching of Davenport onto the enclosure of Guardshack-Griffin et al.-Griffin et al., in order to increase the strength of the enclosure.

Art Unit: 3753

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guardshack-Griffin et al.-Griffin et al. as applied to claim 11 above, and further in view of Clements et al. (6,203,591).

Guardshack-Griffin et al.-Griffin et al. disclose all the features of the claimed invention except that one of the first end panel, the second end panel, and the perforated body panel is formed of perforated sheet metal. Clements et al. disclose that perforated sheet metal and expanded sheet metal are interchangeable (col. 6, lines 65-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the perforated metal of Clements et al. onto the cage of Guardshack-Griffin et al.-Griffin et al., in order to allow for more flexibility during the manufacturing process.

Regarding claim 13, Guardshack-Griffin et al.-Griffin et al. disclose that the expanded metal is 10-18 gauge sheet metal (page 4 of brochure under Fabrication Specifications).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guardshack-Griffin et al.-Griffin et al. in view of Vidal et al., Sieben, Carr, Davenport, and Clements et al.

All the claimed limitations are discussed above in claim rejections 1-2 and 4-19.

### ***Conclusion***

Art Unit: 3753


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dunn (4,993,450) and Wakefield (6,561,215) disclose other pipe enclosures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig M. Schneider whose telephone number is (571) 272-3607. The examiner can normally be reached on M-F 8:30 -5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Blau can be reached on (571) 272-4406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CMS  
December 5, 2005

  
Craig Schneider  
Patent Examiner  
Art Unit 3753

  
**STEPHEN BLAU**  
**PRIMARY EXAMINER**